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PAKISTAN

Islamabad, Pakistan
March 8, 2017

SENSITIVE BUT UNCLASSIFIED

TO: Craig Buck, Deputy Mission Director, USAID/Pakistan

THROUGH: Cynthia Rogers, Director of Office of Executive Management ,
USAID/Pakistan

FROM: Charles Drilling, OTI Country Representative, USAID/Pakistan

SUBJECT: **JUSTIFICATION AND APPROVAL FOR OTHER THAN FULL AND OPEN COMPETITION (J&A) FOR EXECUTION OF A PERSONAL SERVICES CONTRACT**

1. This document sets forth the facts and rationale justifying the use of other than full and open competition, in accordance with AIDAR 706.302-70(b)(5):

This document was prepared by Country Representative of Office of Transition Initiative (OTI) USAID/Pakistan, for the renewal of a Third Country National Personal Services Contract (TCNPSC) issued to an off-shore hired Program Operation Specialist in the Office of OTI.

2. The nature and/or description of the action being approved:

This is a request to approve a renewal of the Contract # AID-391-S-16-00003 issued to an off-shore hired Third Country National Personal Services Contract (TCNPSC) for almost 13.5 months on a full term basis. The proposed period of performance is thirteen (13) months and eighteen (18) days from April 14, 2017 through May 31, 2018 with the estimated cost of the contract of \$153,540.00.

3. Description of the supplies or services required, including an estimated value:

During the course of this 13.5 months contract, the contractor will manage USAID/Pakistan OTI Office program budget of \$70,000,000; assist the Deputy Country Representatives in the development, implementation, and administration of OTI program activities in support of USG goals; and serve as a principle advisor to OTI on potential improvements to program/project implementation and impact.

The contractor will support the management of three implementing partner contracts and cooperative agreements, including monitoring performance, providing training and technical advice, and ensuring compliance with USAID regulations audit reviews. She will also provide support in managing administrative and operative support to the OTI Office. The Contractor will

also backstop new programs as we finalize the hiring process and reach the required staffing needs for the office.

4. Statutory authority permitting other than full and open competition:

In accordance with AIDAR 706.302-70

(a) Authority

(1) Citation: 40 U.S.C. 474

(2) *Full and open competition need not be obtained when it would impair or otherwise have an adverse effect on programs conducted for the purposes of foreign aid, relief, and rehabilitation.*

Following the ADS 309.3.1 d (3) that states:

- (a) *"The CO must not modify a PSC award when a proposed action triggers competition requirements. Competition is required for modifications of existing contracts if there is a cardinal change to the contract, such as an increase to the total estimated amount of the award, a change to the Statement of Duties, an extension of the period of performance, or a change to salary, benefits or allowances outside the terms and conditions of the current contract. This does not include annual performance-based and pay comparability salary increases, or other administrative changes",*
- (b) *"If cardinal changes are needed, the market value for the position must be re- established and re-competed in accordance with this ADS chapter, to ensure that the "new" requirement is appropriately approved and competition is maximized. If the new requirement is not open to competition, the CO must request approval of a Justification and Approval (J&A) in accordance with FAR Part 6 and AIDAR 706 (see 309.3.2.5 and 309.3.3.5)".*

the USAID/Pakistan Country Representative propose to close the current contract # AID-391-S-16-00003 on completion of its period of performance on April 14, 2016 and requests to the Contracting Officer to renew the contract with the same person, at the same Mission with the same Scope of Work under this J&A.

5. A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition that requires use of the authority cited:

The Contractor has over 10 year's progressive experience of project management and implementation; operations and administration. She has over 5 years of USAID significant Acquisition and Assistance experience in a wide range of contracting responsibilities like initial planning process, solicitation design and obtaining approvals, cost/price analysis, negotiation, pre-award surveys, award of Contracts and Cooperative Agreements, Grants, post award, award administration to ensure that the terms and conditions of the award are met, monitoring performance and budgets etc and award closeout. She has also worked on managing a highly complex Post conflict OTI program in Uganda in coordination with other development partners, Donors and other USG Agencies.

The Contractor is considered an expert in programmatic, operations and administrative requirements of the position. With her experience serving in this position for the previous 11

months and her specialized technical expertise, she is uniquely qualified and best positioned to provide programmatic, budget, operations support and management of three implementing partner contracts and cooperative agreements. These aforementioned duties required by OTI are within the scope of work of the Program Operations Specialist.

This contract Award is in the best interest of USAID/Pakistan as it meets a critical need for the Mission and provides exceptional financial value to the U.S Government. She can immediately provide essential assistance to the Mission specifically to the OTI program as per the position description under a one-year TCNPSC contract. Her security and medical clearances are also current and therefore will only need to be revalidated. Please see attached copies of the OF-612 that the Contractor has provided which outlines her work experience and qualifications for this position.

6. Description of the efforts made to ensure that offers are solicited from as many potential sources as practicable, including whether a notice was or will be publicized as required by Federal Acquisition Regulation (FAR) 5.202 [AIDAR 705.202].

The position of Program Operations Specialist was fully competed in June 2015 against Solicitation # SOL-391-15-000023. As mentioned in the Solicitation the Contractor was hired for one year with the option to extend the contract for two additional years depending on the needs of service, upon mutual agreement and subject to satisfactory performance and availability funds

In accordance with FAR 5.102(a)(5)(iii), COs do not need to publicize solicitations for extensions or renewals of USPSCs with the same individual for continuous services at the same mission when the authority in AIDAR 706.302-70(b)(5) is used. However, when using this publicizing exception the CO must:

- (i) Prepare a J&A in accordance with FAR 6.303, and make the J&A publicly available within 14 days of contract award through the GPE (www.fedbizopps.gov) as required in FAR 6.305; and follow the other requirements in AIDAR 706.302-70(c);*

The position for which the contractor was originally hired was synopsisized and published on FedBizOps and in Agency Notice (copy attached), thereby fulfilling the exception requirements of FAR 5.102. Two one-year option years to the contract was indicated in the solicitation # SOL-391-15-000023. This J&A will be publicized on FedBizOps following the above given guidance.

7. A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable:

Appendix D of the AIDAR applies to all personal services contracts with U.S. citizens or U.S. resident aliens to provide assistance abroad under Section 636(a)(3) of the FAA. PSC positions are classified based on the General Service (GS) schedule to determine what the USAID considers to be the market value and salary range of the PSC position. This position was classified at a GS-12 level and the incumbent's salary was determined based on the prevailing market rates for the

position along with her salary history thus ensuring that the anticipated costs to the Government are fair and reasonable. A budget analysis has been performed for the renewal of the contract and USAID/OTI has adequate funding to cover the expense.

8. Description of the market research conducted, and the results or a statement of the reasons market research was not conducted:

As indicated in paragraph 7 above, the incumbent's salary was determined based on the prevailing market rates for the position along with her salary history. The anticipated costs of this activity have also been compared with the prevailing market rates for similar services.

9. Other facts supporting the use of other than full and open competition:

In 2015, the US/TCNPSC position of Program Operation Specialist was classified as GS-12 grade level. The solicitation was publicized as such and opened to all qualified applicants. The classification of the position has not changed and the salary for a GS-12 remains fair and reasonable. The incumbent is immediately available to fulfill the continuing needs of the Agency. USAID/OTI has a continuing and immediate need for the services that are performed under this contract.

10. Sources, if any, that expressed an interest, in writing, in the acquisition:

No other source expressed interest in this activity because there is an exception to the requirement to publish this action.

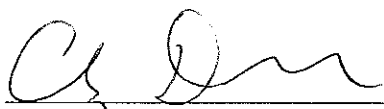
11. The actions the Agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required:

This TCNPSC contract will be for a 13.5 month period only. The renewal of the TCN/PSC contract for 13.5 months will allow sufficient time to complete the competitive solicitation/hiring for a full-time employee and ensure there is sufficient overlap with the new employee for continuity of program. It is planned that the contractor will orient and offer capacity building to the FSN and USPSC staff as they get hired under full and open competition and take on some of the roles for continuity as we phase-out the Position of the Program Operations Specialist in 2018.

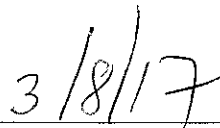
The term of the contract will be for 13.5 months. Based upon contractor performance, continued Mission requirements and the continued availability of funds, the contract may be extended for additional one year.

12. Technical or requirement personnel certification:

I hereby certify that the technical statements included above and which form a basis for the justification for renewal of TCN/PSC contract are complete and accurate.



Charles Drilling, OTI Country Representative



Date

13. Contracting Officer Certifications:

I hereby certify that the justification is accurate and complete to the best of my knowledge and belief.


Cynthia Rogers, Director Office of
Executive Management

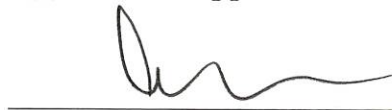
3/8/17
Date

14. Clearance


Jane Ellen M. Paschall, Legal Officer

3/10/17
Date

15. Approved/Disapproved


Craig Buck, Deputy Mission Director

3-10
Date

Approve:  3-10-2017

Disapprove: _____